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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,587	11/21/2000	Christopher G. Kaler	777.338US1	8807
41505	7590	06/16/2006	EXAMINER	
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)			VU, TUAN A	
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			2193	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/717,587	Applicant(s) KALER ET AL.	
	Examiner Tuan A. Vu	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 15, 22-31 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 22-26 is/are allowed.
- 6) ☐ Claim(s) 1-10, 15, 27-31 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 4/13/2006.

As indicated in Applicant's response, no claims have been amended. Claims 1-10, 15, 22-31, and 34 are pending in the office action.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-10, 15, 22-31, and 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 9-24 of U.S. Patent No. 09/717645 (hereinafter '645) in view of Leblang et al., USPN: 5,649,200 (i.e. Leblang). Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims represent obvious variations of the invention recited in the claims of the '645 application. The following are but a few examples of such conflicts.

As per instant claims 1 and 22, '645 claims 2 and 10 also recite setting a start time with a value representing the current time in the data structure; but these '645 claims do not disclose creating a link content data structure; setting a link set reference field referring to a link set data structure corresponding to set of associated project management objects; and setting an object

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reference field to refer to the project management object as recited in the instant claims. In an analogous method to control objects versioning, Leblang discloses the setting and creating of link set and link data structure or object reference field as claimed (col. 9, lines 8-56; *configuration record* – Fig. 23; *derived object 500* – Fig. 21; col. 32, line 55 to col. 39; Fig. 20; *VOB* -Fig. 22; link 530 - Fig. 23). It would have been obvious for one of ordinary skill in the art at the time the invention was made to add the creation of content data structure and reference link set as claimed to the ‘645 invention because with such link set and data structure, the method of updating database by ‘645 would be more enhanced and fault-free when separate data structures are created and set to support users update instances and thereby keep the database from being overwhelmed by simultaneous update operations with potential contention issues.

As per instant claims 3 and 24, ‘645 claims 6, 14 also recite such data structure being a row in a database.

As per instant claims 6 and 27, ‘645 claims 2 and 10 also recite setting an end time field but do not recite some limitations for which the teachings by Leblang as set forth from above would have rendered obvious, such limitations being receiving a link set identifier, a reference to the managed object, and locating a link content data structure.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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The Federal Circuit has recently applied the practical application test in determining whether the claimed subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a “useful, concrete, and tangible result” be accomplished. An “abstract idea” when practically applied is eligible for a patent. As a consequence, an invention, which is eligible for patenting under 35 U.S.C. § 101, is in the “useful arts” when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The test for practical application is thus to determine whether the claimed invention produces a “useful, concrete and tangible result”.

5. Claim 1-5, 6-10, 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Specifically, claim 1 recites a method for adding an association of a project management object to a set of associated project management objects where a link set data structure corresponds to the set of associated project management objects, comprising creating a link content data structure with link field, a object field, and a time field, adding an association by setting a link field to a value, setting the object field to refer to a management object, and setting the time field to time.

From the Specifications, these fields in the structure amount to database record or table type of entities; hence are software implemented. Software entities being set to some values as claimed without any further information as to convey a possible execution by a tangible computer, or storage for such entities as in a computer readable medium amounts to non statutory subject matter. According to the 35 USC §101 Guidelines, software instructions or program claimed without tangible storage enabling reasonable execution by a computer for data to be transformed would not be construed as able to yield a tangible result; hence amounts to an non-practical abstract idea, and is rejected as non-statutory for failing to yield concrete, useful and tangible result.

It is suggested that the claim should indicate that the method is implemented with program instructions stored in a computer-readable medium; or that the structures are tangibly stored or expressed in a computer processing/displaying device for some useful purpose.

Claims 2-5 are rejected for failing to remedy to the deficiencies of claim 1.

Claim 6 also recites setting a field of a structure (i.e. software entity) to a time value without any information that would reasonable convey that such structure is embodied in a tangible medium or being stored in a computer for data transformation leading to a useful and tangible result. The structure amounts to a software file without a real world embodiment; hence an abstract idea.

Claims 6-10, and 15 will be rejected as non-statutory for the same reasons as set forth for claim 1.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 15 recites the limitation "claim 14" in line 1. There is insufficient antecedent basis for this limitation in the claim; and this claim 15 will be treated as if it were claim 7 wherein the same subject matter is recited.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 6, 8-10, 27, 29-31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leblang et al., USPN: 5,649,200 (hereinafter Leblang), in view of Eisenberg et al., USPN: 5,890,166 (hereinafter Eisenberg).

As per claim 6, Leblang discloses a computerized method for removing (e.g. *merge*, *check-in* – Fig. 13-15) an association of a project management object (hereinafter PMO) from a set of associated project management objects, the method comprising:

receiving an identifier for a link set corresponding to the set of associated PMOs (e.g. link 530, *derived object 500* - Fig. 22, 23);

receiving a reference to the PMO (e.g. col. 32, line 55 to col. 39; link 530 - Fig. 23);

locating a link content data structure containing the reference to the PMO (e.g. record 514 – Fig. 20; *config rec 530*, link 530 – Fig. 21).

But Leblang does not specify creating a end time field in said link content data structure; and setting a end time field in the link content data structure to a value representing the current. However, Leblang teaches associating a time stamp with the referred to objects for update (e.g. Fig. 8-9; col. 11, lines 44-51; col. 16, line 49-55). Besides, the associating of time stamp to version control and informing on life scope of versioned objects was a well-known concept at the time of the invention. Further, in a method to control versioning analogous to Leblang's method, Eisenberg discloses setting a start time field in the link content data structure to a value representing the current time (e.g. col. 15, lines 17-20, 27-29) and setting an end time field in the link content data structure to a value representing a most recent version of the object (e.g. e.g. col. 5, lines 39-41). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the techniques of setting the start and end time as suggested

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by Eisenberg to Leblang's time stamp attribute because the recording of time variance or time elapsed related to database update operations enable better understanding of real-world interdependencies of versioned objects, their most current versions, and the dynamic state of their being updated by more than one operators over time (see Eisenberg: col. 14, line 1 to col. 17, line 67).

As per claims 8-9, refer to rejection of claims 4 and 3, respectively.

As per claim 10, see claim 5.

As per claim 27, this is a computer medium claim of corresponding claim 6; hence is rejected with the same rationale used therein.

As per claims 29-31, refer to claims 3-5, respectively, for corresponding rejections.

As per claim 34, see claim 5.

10. Claims 7, 15, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leblang et al., USPN: 5,649,200, and Eisenberg et al., USPN: 5,890,166, as applied to claims 1, 6, 14, 22, 27 from above, in view of Reed et al., USPN: 5,862,325 (hereinafter Reed).

As per claim 7, Leblang teaches link being hard pathname but does not specify object reference field being an URL. However, Leblang teaches hyperlinks to reach versioned data or database (e.g. col. 16, line 57 to col. 17, line 29). Reed, in a communication scheme to enable update of database versioned data analogous to Leblang's version control method using system hard links, discloses use of URL to reach out for version instances of objects (e.g.

http://company.com/commobject3481.cos -- col. 91, line 27 to col. 92, line 9; Fig. 2). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide such URL to locate version database as suggested by Reed, and apply this to Leblang

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linking method because database accessible across the internet would alleviate extraneous storage resources of the local system or environment under which Leblang's method operates for version update.

As per claims 15 and 28, see claim 7.

Response to Arguments

11. Applicant's arguments filed 4/13/2006 have been fully considered but they are moot in view of the current rejection. The following are the Examiner's observations in regard to the current grounds of rejection of the Office Action.

(A) The double patenting issue is pending a terminal disclaimer for facilitating a expedite allowance process in case the whole set of claims are deemed allowable.

(B) The claims rejected under 35 USC 101 should have to be amended to encompass teaching that the method be implemented as program instructions stored in a computer-readable medium, or that the structure being claimed are stored or persisted in a tangible machine so to convey a purport towards some displaying or useful purpose.

(C) As per claims 1 and 22, the arguments about Leblang not disclosing a distinct ORF and a LSDS would be moot in view of the new grounds of rejection which do not include prior art rejection against these claims.

(D) Claims 6-10, and 15 are still rejected because there is no evidence from the Applicants have rebutted against the rejection of the subject matter of these claims.

Allowable Subject Matter

12. Claims 1 and 22 contain allowable subject matter.

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That is: adding an association of a project management object to the set of associated PMOs comprising creating a link set content data structure (LSCS) in conjunction with the link set data structure (LSDS), the LSDS to correspond to the set of associated PMOs; setting a link set reference field of the LSCS to a value that refers to a LSDS corresponding to the set of associated PMOs; setting a object reference field in the LSCS to refer to the above project management object; and setting a start time field in the LSCS to represent a start (or end) time.

The prior art by Leblang does not clearly teach adding a project management object to the set of PMOs; but merely teaches retrieve or derive configuration record that refers to other object (Leblang's derived objects); and as a whole Leblang does not teach:

(i) set up to 2 distinct structures, namely, the LSCS (previously mapped to Configuration Record in Leblang) and LSDS (previously mapped to structure 532 or entry of CR 532 in Leblang), so that

(ii) one field of the LSCS (any entry in the CR 532) is referring to the LSDS; one field of the LSCS to a time value, and

(iii) another field (ORF) of the LSCS referring to ONE particular PMO (analogized to derived object by Leblang) to be added to the set of PMO (or objects inside the VOB by Leblang).

Leblang does not clearly teach a one PMO to be added and referred by one ORF, nor does Leblang teach a distinct LSDS (emphasis here) to correspond to a set of associated PMOs to which the one PMO association is to be added.

Pending the corrective actions taken to remedy to the deficiencies as set forth in the Office Action, the claims 1-5 are potentially allowable.

Claims 22-26 are allowable.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719.


The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence – please consult Examiner before using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT

June 9, 2006


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